

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

**COMMAND AUDIT OF THE
SAN DIEGO AREA**



FINAL REPORT

MAY 21, 2010

M e m o r a n d u m

Date: May 21, 2010

To: Office of the Commissioner
Attention: Commissioner J. A. Farrow

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Office of the Assistant Commissioner, Inspector General

File No.: 005.9968.A13471.010

Subject: FINAL 2009 COMMAND AUDIT REPORT OF THE SAN DIEGO AREA

In accordance with the Institute of Internal Auditors, *International Standards for the Professional Practice of Internal Auditing* §2440, issued by the Institute of Internal Auditors, Government Code §13887(a)(2), and the California Highway Patrol Audit Charter, I am issuing the 2009 Command Audit Report of the San Diego Area. The audit focused on the command's Driving Under the Influence and Asset Forfeiture Programs.

The audit revealed the command has adequate operations. However, some issues were observed. This report presents suggestions for management to improve on some of its operations. In doing so, operations would be strengthened and the command would ensure it is operating in compliance with policies and procedures. We have included our specific findings, recommendations, and other pertinent information in the report. The San Diego Area agreed with all of the findings and plans to take corrective action to improve its operations.

San Diego Area will be required to provide a 30 day, 60 day, six month, and one year response on its corrective action plan implementation. If identified issues are resolved and addressed during any phase of the above reporting period, no future action is required on their behalf. Also, the Office of Inspections plans on conducting a follow-up review within one year from the date of the final report.

Additionally, in accordance with the *International Standards for the Professional Practice of Internal Auditing* and Government Code §13887(a)(2), this report, the response, and any follow-up documentation is intended for the Office of the Commissioner; Office of the Assistant Commissioner, Field; Office of the Assistant Commissioner, Inspector General; Office of Legal Affairs; Office of Inspections; Border Division; and the San Diego Area. Please note this report restriction is not meant to limit distribution of the report, which is a matter of public record pursuant to Government Code §6250 et seq.

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Furthermore, in accordance with the Governor's Executive Order S-20-09 to increase government transparency, the final audit report, including the response to the draft audit report, will be posted on the CHP's internet website, and on the Office of the Governor's webpage, located on the State's Government website.

The Office of Inspections would like to thank San Diego Area's management and staff for their cooperation during the audit. If you need further information, please contact Captain Ernie Sanchez at (916) 843-3160.

A handwritten signature in blue ink that reads "M. C. A. Santiago".

M. C. A. SANTIAGO, CIG, CLEA
Assistant Commissioner

cc: Office of the Assistant Commissioner, Field
Border Division
San Diego Area
Office of Legal Affairs
Office of Inspections, Audits Unit

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

COMMAND AUDIT OF THE SAN DIEGO AREA

OFFICE OF INSPECTIONS, AUDITS UNIT

MAY 21, 2010

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EXECUTIVE SUMMARY

The Commissioner has the responsibility, by statute, to enforce laws regulating the operation of vehicles and use of highways in the State of California and to provide the highest level of safety, service, and security to the people of California. Consistent with the California Highway Patrol's (CHP) 2009 Audit Plan, the Office of the Commissioner directed the Office of Inspections, Audits Unit, to perform an audit of the San Diego Area.

The CHP's 2008-2010 Strategic Plan highlights the mission statement which includes five broad strategic goals designed to guide the CHP's direction. One strategic goal is to continuously look for ways to improve the efficiency and/or effectiveness of departmental operations.

The objective of the audit is to determine if the command has complied with operational policies and procedures regarding the Driving Under the Influence (DUI) Cost Recovery and Asset Forfeiture Programs. Additionally, this audit will provide managers with reasonable, but not absolute, assurance that departmental operations are being properly executed. The audit period was from January 1, 2008 through May 31, 2009. However, to provide a current evaluation of the command, primary testing was performed of business conducted during the period of October 1, 2008 through March 31, 2009. The audit included a review of existing policies and procedures, as well as, the examining and testing recorded transactions, to determine compliance with established policies, procedures, and good business practices. The audit field work was conducted from June 8 - 12, 2009.

Sample selection for this audit was primarily random. However, if a judgmental sample was necessary, the auditor selected accordingly. Whenever possible, the use of risk assessment was used to select a sample containing the highest probability of risk to the command.

Based on the review of the San Diego Area's operations, this audit revealed the San Diego Area has complied with most operational policies. However, some issues were observed. The following is a summary of the identified issues:

DUI Cost Recovery Program

- The command did not always ensure the accuracy of their DUI Cost Recovery Program documents.
- The command did not always reconcile billable hours used to prepare their DUI Cost Recovery Program documents.
- The command did not properly complete their CHP 415, Daily Field Record forms (specifically, the offender's court case number and name; also, the offender's name was not consistently listed on each form).
- The command did not always submit DUI Cost Recovery Program billing packages to Fiscal Management Section in a timely manner.



Asset Forfeiture Program

- The command did not always complete properly nor submit timely Asset Forfeiture documents to their Division Asset Forfeiture Coordinator (AFC).
- The command did not review and forward their Asset Forfeiture Memorandums of Understanding to their Division AFC annually.

Please refer to the Findings and Recommendations section for detailed information.

AUDIT REPORT

INTRODUCTION

To ensure the California Highway Patrol's (CHP) operation is efficient and/or effective and internal controls are in place and operational, the Office of the Commissioner directed the Office of Inspections, Audits Unit, to perform an audit of the San Diego Area.

The CHP's 2008-2010 Strategic Plan highlights the mission statement which includes five broad strategic goals designed to guide the CHP's direction. One strategic goal is to continuously look for ways to increase the efficiency and/or effectiveness of departmental operations. This audit will assist the CHP in meeting its goal.

OBJECTIVE AND SCOPE

The objective of the audit is to determine if the command has complied with operational policies and procedures regarding the Driving Under the Influence (DUI) Cost Recovery and Asset Forfeiture programs that provide managers with reasonable, but not absolute, assurance departmental operations are being properly executed. The audit period was from January 1, 2008 through May 31, 2009. However, to provide a current evaluation of the command, primary testing was performed of business conducted during the period October 1, 2008 through March 31, 2009. This audit included a review of existing policies and procedures, as well as, examining and testing recorded transactions, to determine compliance with established policies, procedures, and good business practices. The audit field work was conducted from June 8 - 12, 2009.

METHODOLOGY

Under the direction by the Office of the Commissioner, each command was randomly selected to be audited regarding its DUI Cost Recovery and Asset Forfeiture Programs. Sample selection of areas to be audited was primarily random or judgmental. Whenever possible, the use of risk assessment was used to select a sample containing the highest probability of risk to the command.

There were no prior audit reports and findings of this command.

OVERVIEW

DUI Cost Recovery Program: The command was compliant with most state laws and departmental policies and has adequate internal controls regarding its Reimbursable Services – DUI Cost Recovery Program. However, the command did not always ensure the accuracy nor reconcile billable hours used to prepare their DUI Cost Recovery Program documents. Additionally, the command did not properly complete their CHP 415, Daily Field Record forms (specifically, the offender's court case number and name; also, the offender's name was not

consistently listed on each form) and did not always submit DUI Cost Recovery Program billing packages to Fiscal Management Section in a timely manner.

Asset Forfeiture Program: The command was compliant with state laws and most departmental policies and has adequate internal controls regarding its Asset Forfeiture program. However, the command did not always complete properly nor submit timely Asset Forfeiture documents to their Division Asset Forfeiture Coordinator (AFC). Also, the command did not review and forward their Asset Forfeiture Memorandums of Understandings to their Division AFC annually.

This audit revealed the command has adequate operations, nevertheless, issues were discovered, which if left unchecked could have a negative impact on the command and CHP operations. These issues should be addressed by management to maintain the command's compliance with appropriate law, regulations, policies, and procedures. The findings and appropriate recommendations are presented in this report.

As a result of changing conditions and the degree of compliance with policies and procedures, the efficiency and effectiveness of operations change over time. Specific limitations may hinder the efficiency and effectiveness of an otherwise adequate operation include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, fraud, and management overrides. Establishing compliant and safe operations and sound internal controls would prevent or reduce these limitations; moreover, an audit may not always detect these limitations.

FINDINGS AND RECOMMENDATIONS

DRIVING UNDER THE INFLUENCE (DUI) COST RECOVERY PROGRAM

FINDING 1: **The command did not always ensure the accuracy of their DUI Cost Recovery Program documents.**

Condition: From October 1, 2008 to March 31, 2009, the command generated 132 CHP 735, Incident Response Reimbursement Statements. The auditor randomly selected 55 CHP 735 forms for review. Based on the review, 32 (58 percent) of the 55 CHP 735 forms had conflicting "blood alcohol concentration (BAC) results received date" listed on the CHP 735 forms and the actual BAC results date listed on the Lab Data and the Subject Breath Test reports.

Criteria: Government Code (GC) Section 13403(a)(6) says one of the elements of a satisfactory system of internal accounting and administrative control is an effective system of internal review.

Recommendation: The command should ensure the accuracy of their DUI Cost Recovery documents.

FINDING 2: **The command did not always reconcile billable hours used to prepare their DUI Cost Recovery Program documents.**

Condition: Based on the review of 55 DUI Cost Recovery billing packages, the hours billed on 13 (24 percent) CHP 735 forms did not reconcile to the associated CHP 415, Daily Field Record forms due to personnel not itemizing their hours on their CHP 415 forms.

Criteria: GC Section 13403(a)(6) says one of the elements of a satisfactory system of internal accounting and administrative control is an effective system of internal review.

Highway Patrol Manual (HPM) 11.1, Administrative Procedure Manual, Chapter 20, Driving Under the Influence (DUI) Cost Recovery Program, paragraph 4.e.(2)(c) states, "The number of staff hours charged on the CHP 735, Incident Response Reimbursement Statement, must agree with the appropriate CHP 415, Daily Field Record. Area office must be able to verify the hours claimed on the CHP 735, Incident Response Reimbursement Statement, when offenders challenge the hours billed. If an Area office cannot substantiate the hours billed, the Department cannot recover incident costs. In order to reconcile the hours, please ensure the following information is included:

1 Offender's name and court case number shall be included on the CHP 415, Daily Field Record.

2 When time recorded under a specific category (e.g., Accident Investigation, Partner Assist, Response Time) on the CHP 415, Daily Field Record, includes more than one activity, indicate the billable DUI time in the Notes portion on the CHP 415, Daily Field Record.”

Recommendation: The command should reconcile the number of billable hours claimed on the CHP 735 with staff hours recorded on the CHP 415 forms when preparing their DUI Cost Recovery Program documents.

FINDING 3: **The command did not properly complete their CHP 415 forms (specifically, the offender’s court case number and name; also, the offender’s name was not consistently listed on each form).**

Condition: Based on the review of 55 DUI Cost Recovery billing packages, all 55 (100 percent) billing packages revealed that the offender’s court case numbers were not recorded on the CHP 415 forms. Additionally, eight (15 percent) of the 55 billing packages revealed that the offender’s names were not listed on the CHP 415 forms and in 37 (67 percent) instances the offender’s names were not consistently listed on the CHP 415 forms.

Criteria: GC Section 13403(a)(6) says one of the elements of a satisfactory system of internal accounting and administrative control is an effective system of internal review.

HPM 11.1, Administrative Procedure Manual, Chapter 20, Driving Under the Influence (DUI) Cost Recovery Program, paragraph 4.e.(2)(c) states, “The number of staff hours charged on the CHP 735, Incident Response Reimbursement Statement, must agree with the appropriate CHP 415, Daily Field Record. Area office must be able to verify the hours claimed on the CHP 735, Incident Response Reimbursement Statement, when offenders challenge the hours billed. If an Area office cannot substantiate the hours billed, the Department cannot recover incident costs. In order to reconcile the hours, please ensure the following information is included:

1 Offender’s name and court case number shall be included on the CHP 415, Daily Field Record.”

Recommendation: The command should properly complete their DUI Cost Recovery documents according to departmental policy.

FINDING 4: **The command did not always submit DUI Cost Recovery Program billing packages to Fiscal Management Section (FMS) in a timely manner.**

Condition: Based on the review of 55 DUI Cost Recovery billing packages, 39 (71 percent) billing packages were submitted to FMS from 12 to 50 business days after receiving the necessary information required to submit the billing package.

Criteria: HPM 11.1, Administrative Procedures Manual, Chapter 20, Driving Under the Influences (DUI) Cost Recovery Program, paragraph 4.b.(1) states, "Completed CHP 735s, Incident Response Reimbursement Statement, based on Section A (refer to Annex B) shall be forwarded to Fiscal Management Section (FMS), Reimbursable Services Unit, within ten business days of one of the following dates:

- (a) The date BAC results of .08% or greater are received.
- (b) The date BAC results of .04% or greater are received for a commercial driver."

HPM 11.1, Administrative Procedures Manual, Chapter 20, Driving Under the Influences (DUI) Cost Recovery Program, paragraph 4.b.(2) states, "Completed CHP 735s, Incident Response Reimbursement Statement, based on Section B (refer to Annex C) shall be forwarded to FMS, Reimbursable Services Unit, within ten business days of the notification of a conviction of CVC Sections 23152, 23153, or greater offense as a result of one of the following:

- (a) In the case of a refusal.
- (b) An arrest for drugs only.
- (c) A BAC of less than .08%."

Recommendation: The command should comply with departmental policy to submit timely DUI Cost Recovery billing packages to FMS.

ASSET FORFEITURE PROGRAM

FINDING 1: **The command did not always complete properly nor submit timely Asset Forfeiture (AF) documents to their Division Asset Forfeiture Coordinator (AFC).**

Condition: Based on a review of three AF cases (two closed AF cases and one open AF case), one (33 percent) of the three AF cases (closed AF case # 2008-645-023F) was submitted to the Division 35 days after the seizure date. The AF case #2008-645-023F was initiated on February 1, 2008, but was reviewed and approved by the Area commander on March 6, 2008, then submitted to their Division AFC. Additionally, two (12 percent) of the 17 reviewed CHP 300A, Asset Forfeiture Summary Reports, were not signed and dated by the commander. Also, five (29 percent) of the command's CHP 300A forms were submitted to the Division AFC anywhere from the 11th to the 21st day of the month following the report period.

Criteria: HPM, 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 16 states, "The Area AFC shall forward two copies of the asset forfeiture case file to the Division AFC within 20 days of the seizure/incident. The Division AFC will forward a copy to the FSS AFC as soon as possible thereafter. Any documents or materials that are not ready to be sent to the Division AFC with the initial report shall be forwarded to the Division AFC upon their completion or when received by

the Area AFC. The Division AFC will then forward the information to the FSS AFC.”

HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 17.b.(1)(a) and (b) states, “CHP 300A, Area Asset Forfeiture Summary Report.”

(1) Activity Reporting.

(a) Area AFCs shall be responsible for preparing the CHP 300A on a monthly basis for each of the Area’s asset forfeiture cases. The person preparing the form shall sign and date the bottom of the form. The Area commander shall also sign the form where indicated.

(b) The copy of the CHP 300A shall be forwarded to the Division AFC on a monthly basis. The reports are to be received by the Division AFC no later than the 10th day of the month following the end of the reporting period.”

Recommendation: The command should comply with departmental policy by completing and submitting AF documents to their Division AFC.

FINDING 2: **The command did not review and forward their AF Memorandums of Understanding (MOUs) to their Division AFC annually.**

Condition: The command has one 2002 MOU in place with the Coronado Police Department and two 2006 MOUs with the cities of National City Police Department and Chula Vista; however, there is no evidence the command reviewed and forwarded the MOUs to their Division AFC by February 1 of each year since 2003 and 2007.

Criteria: HPM 81.5, Drug Programs Manual, Chapter 2, Asset Forfeiture Program, paragraph 4, states, “MEMORANDUM OF UNDERSTANDING.”

a. Area commanders should develop appropriate Memorandums of Understanding (MOUs) with all allied law enforcement agencies and/or NTFs within their geographical jurisdictions for cases involving asset seizures and drug arrests initiated by CHP personnel not assigned to an NTF. This requirement can be satisfied by establishing separate MOUs with individual agencies and/or with multiple agencies via county chiefs of police associations or the local NTF. A sample MOU is contained in Annexes 2-B-1 through 2-B-3. This sample may not be adequate for every Area; conversely, it may be too detailed for some circumstances. However, at a minimum, MOUs shall address the allied agency’s/NTF’s minimum criteria for being called out to drug arrests, cash handling procedures, and asset forfeiture equitable share distributions.

b. Annual Review. Area AFCs shall review their respective MOUs annually in order to ensure the agreements are current. Area AFCs shall forward copies of renewed MOUs to their Division no later than

February 1 of each year. Divisions shall forward copies to FSS no later than March 1. For MOUs not requiring renewal, the Area AFC shall sign and date the MOU on the signature page with the notation "Reviewed - no changes required."

c. Change of Command. When there is a change of command within the CHP, it is not necessary to renew asset forfeiture MOUs currently in effect unless the incoming commander wishes to make changes to an existing MOU. When there is a change of command within an allied agency/NTF, the MOU should be renegotiated with the new commander.

d. Distribution. Two copies of newly established or revised MOUs shall be forwarded to the Division AFC. The Division AFC shall forward a copy to FSS."

Recommendation: The command should review and forward their AF MOUs to their Division AFC annually according to departmental policy.

CONCLUSION

Based on the review of the command's operation, this audit revealed the command has adequate operations. However, some issues were observed. This report presents suggestions for management to improve on some of its operations. In doing so, operations would be strengthened and the command would operate in accordance with departmental policies and procedures.

ANNEX

A

Memorandum

Date: April 16, 2010

To: Office of Inspections

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Border Division

File No.: 601.9857.16472

Subject: SAN DIEGO AREA'S RESPONSE TO 2009 COMMAND AUDIT – DUI COST
RECOVERY & ASSET FORFEITURE

Attached is San Diego Area's response to the 2009 Command Audit – DUI Cost Recovery & Asset Forfeiture Inspection recently conducted by personnel from your office.

The Area commander has closely reviewed the findings and recommendations contained within the final report and concurs with the evaluator's findings.

I concur with the commander's actions in this matter and am satisfied identified deficiencies are being properly addressed and will reassess on a quarterly basis.


G. A. DOMINGUEZ, Chief

Attachment

cc: San Diego Area ✓



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ANNEX

B

M e m o r a n d u m

Date: March 24, 2010

To: Border Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
San Diego Area

File No.: 645.10.13130.14700

Subject: SAN DIEGO AREA 2009 COMMAND AUDIT REPORT

This memorandum is intended to serve as the written response to the command audit report of the San Diego Area as required by the Office of Assistant Commissioner, Inspector General's memorandum dated January 11, 2010.

FINDINGS AND RECOMMENDATIONS:**DUI COST RECOVERY PROGRAM:**

Finding 1 – The command did not always ensure the accuracy of their DUI Cost Recovery Program documents.

Recommendation – The command should ensure the accuracy of their DUI Cost Recovery documents.

Response – The Area concurs with the finding and the recommendation. To ensure the accuracy of the CHP 735's training has been provided to the clerical staff. Supervisory personnel have been directed to reconcile and verify all CHP 735's.

Finding 2 – The command did not always reconcile billable hours used to prepare their Cost Recovery Program documents.

Recommendation – The command should reconcile the number of billable hours claimed on the CHP 735 with staff hours recorded on the CHP 415 forms when preparing their DUI Cost Recovery Program documents.

Response - The Area concurs with the finding and the recommendation. To ensure the accuracy of the CHP 735's a sergeant is required to review the form with the supporting documents, comparing the time documented on the CHP 415 submitted by the officer. The CHP 735 and CHP 415 again are reviewed for consistency by Area management when signing the 735's for transmittal.

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Finding 3 – The command did not properly complete their CHP 415 forms (specifically, the offender's court case number and name; also, the offender's name was not consistently listed on each form).

Recommendation – The command should properly complete their DUI Cost Recovery documents according to departmental policy.

Response - The Area concurs with the finding and the recommendation. Training has been provided to the entire command along with several review levels to ensure compliance with departmental policy. Each CHP 415 pertaining to DUI Cost Recovery is required to have the CHP case number and the defendant's name.

Finding 4 – The command did not always submit DUI Cost Recovery Program billing packages to Fiscal Management Section (FMS) timely.

Recommendation – The command should comply with departmental policy to submit timely DUI Cost Recovery billing packages to FMS.

Response - The Area concurs with the finding and the recommendation. The DUI Cost Recovery clerk had been backlogged. The clerk was provided time to clear all pending DUI Cost Recovery cases and is current with the submissions.

ASSET FORFEITURE:

Finding 1 – The command did not always complete properly nor submit timely Asset Forfeiture (AF) documents to their Division Asset Forfeiture Coordinator (AFC).

Recommendation – The command should comply with departmental policy by completing and submitting AF documents to their Division AFC.

Response - The Area concurs with the finding and the recommendation. Training has been provided to the Area Asset Forfeiture Coordinator with an emphasis on the importance of timely submission. Management will also utilize a newly developed database to remind the Area Coordinator of the upcoming deadline.

ASSET FORFEITURE (continued):

Finding 2 – The command did not review and forward their AF Memorandums of understanding (MOUs) to their Division AFC annually.

Recommendation – The command should review and forward their AF MOUs to their Division AFC annually according to departmental policy.

Response - The Area concurs with the finding and the recommendation. The MOU with allied agencies will be reviewed annually. Any changes will be submitted on an amended MOU with all required signatures.

The action items outlined in the responses to the auditor's findings will be monitored and modified as necessary to ensure their effectiveness. Should you have any questions concerning this memorandum, please contact Lieutenant Arvizu via e-mail at parvizu@chp.ca.gov or by telephone at (619) 220-5492.



R. K. STEWART, Captain
Commander